

Amendment No. 2 to SB2140

Beavers
Signature of Sponsor

AMEND Senate Bill No. 2140*

House Bill No. 2809

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 1, Chapter 3, Part 1, is amended by adding the following as a new section:

Section 1-3-119.

(a) In order for legislation enacted by the general assembly to create or confer a private right of action or impose an affirmative duty of care, the legislation must contain express language creating or conferring the right, or imposing the duty.

(b) In the absence of the express language required by subsection (a), no court of this state, licensing board or administrative agency shall construe or interpret a statute to impliedly create or confer a private right of action or impose an affirmative duty of care.

(c) Nothing in this section shall be construed in any way to impair the ability of a court to:

(1) Recognize a private right of action that was recognized before the effective date of this section by the courts of this state as arising under a statute, unless the statute is amended after the effective date of this section to expressly bar the private right of action.

(2) Create or confer a private right of action or impose an affirmative duty in the absence of a controlling statute on each cause of action contained in the complaint if such action or duty is based on the common law;

(3) Utilize the doctrine of negligence per se; or

(4) Recognize a private right of action commenced by a state or local governmental entity to collect any fees owed for a governmental service or to recover such fees from a party that is obligated to bill and collect fees owed others for a governmental service.

(d) Nothing in this section shall be construed in any way to impair the ability of a state or local regulatory or licensing agency to enforce rules pursuant to the uniform administrative procedures act, codified in title 4, chapter 5, if such rules were duly enacted through the rulemaking authority granted to any such agency by statute.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it and shall apply to any action that has not yet been commenced prior to its effective date or is commenced on or after its effective date.